

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ROSALIND A. CLAYTON,)
)
Plaintiff,)
)
vs.) Case No. 4:18-cv-01039-JAR
)
MEGAN J. BRENNAN, et al.,)
)
Defendants.)
)

AMENDED MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Motion for Leave to File Third Amended Complaint (Doc. 34), and Motion for Leave to File Permissive Joinder (Doc. 38).

Plaintiff filed suit on June 25, 2018, submitting a nineteen-page complaint with 74 paragraphs of factual allegations. (Doc. 1.) Two days later, Plaintiff sought leave to file an amended complaint. (Doc. 5.) That motion was granted (Doc. 9), and Plaintiff filed an amended complaint stretching twenty-three pages with 79 paragraphs of factual support (Doc. 10). On January 24, 2019, Plaintiff moved for leave to supplement her complaint. (Doc. 17.) The Court ordered her to file a motion for leave to file a second amended complaint with the proposed second amended complaint attached. (Doc. 21.) Plaintiff filed her motion for leave to file a second amended complaint on April 8, 2019. (Doc. 31.) It was forty-seven pages long and asserted 142 paragraphs of factual allegations. (*Id.*) On April 12, 2019, the Court granted Plaintiff's motion but directed her to file a new proposed second amended complaint "that sets out each separate legal claim she intends to raise, with a concise statement of supporting facts relevant to that claim." (Doc. 33 at 1.)

The apparent product of that Order is this Motion for Leave to File Third Amended Complaint. (Doc. 34.) Her proposed third amended complaint has been trimmed to thirty-one pages and 141 paragraphs of facts. (Doc. 34-1.) It does not clearly or concisely set out separate legal claims nor does it organize the factual allegations under the claim each fact supports. For this reason, the Court will deny the motion and direct her one final time to file a new second amended complaint that complies with the Court's April 8 Order:

She is directed to attach a new proposed amended complaint that sets out each separate legal claim she intends to raise, with a concise statement of supporting facts relevant to that claim. *See Fed. R. Civ. P. 8(a)(2)* (directing Plaintiffs to submit "a short and plain statement of the claim showing that the pleader is entitled to relief"). Plaintiff is cautioned that the filing of this amended complaint completely replaces the original and amended complaints and that claims that are not re-alleged are deemed abandoned. *See e.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation*, 396 F.3d 922, 928 (8th Cir. 2005).

((Doc. 33 at 1-2.)

The Court will deny Plaintiff's Motion for Leave to File Permissive Joinder. (Doc. 38.) The scope of a civil action and the determination of joinder is "a matter for the discretion of the district court." *Mosley v. Gen. Motors Corp.*, 497 F.2d 1330, 1332 (8th Cir. 1974). Here, Plaintiff seeks to add a new party and new claims sixteen months after she first filed suit and despite having filed no fewer than four versions of her complaint in this case. To permit the joinder—which, by definition, is not necessary to the prosecution of her claims—would be unduly prejudicial to the proposed new defendants and would only serve to further delay this case.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Leave to File Third Amended Complaint (Doc. 34), is **DENIED**

IT IS FURTHER ORDERED that Plaintiff's Motion for Leave to File Permissive Joinder (Doc. 38), is **DENIED**.

IT IS FINALLY ORDERED that Plaintiff **SHALL FILE**, no more than fifteen (15) days from the date of this order, a short, concise complaint, that:

1. Identifies each specific legal claim she is asserting;
2. Identifies the party or parties against whom each specific legal claim is asserted; and
3. Lists under each specific legal claim only those facts which are necessary to that claim.

Plaintiff's complaint **SHALL BE LIMITED** to the current named Defendants:

- A. Megan J. Brennan, Postmaster General, United States Postal Service; and
- B. American Postal Worker Union AFL-CIO.

If Plaintiff fails to comply with the Court's instructions regarding her new amended complaint, it will dismiss her suit without prejudice.

Dated this 8th day of October, 2019.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE